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SARACIA L.P. SHANNAHAN

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

BROOKMEAD PARTNERS, LP, a Nevada limited partnership, Plaintiff, vs. Interinsurance Exchange Of The Automobile Club, a California business entity, Saracia L.P. Shannahan, and William P. Shannahan, Defendants.	Case No.: 08-cv-659-JLS-WMc **DEFENDANT SARACIA L.P. SHANNAHAN'S EX PARTE APPLICATION FOR ENLARGEMENT OF TIME TO RESPOND TO COMPLAINT, CROSS-COMPLAINT-IN-INTERPLEADER, AND CROSSCLAIM** DATE: TIME: CTRM: Courtroom 6, 3rd Floor JUDGE: Hon. Janis L. Sammartino
HIGGS, FLETCHER & MACK, LLP, Cross-Complainant, vs. BROOKMEAD PARTNERS, LP, a Nevada limited partnership, SARACIA L.P. SHANNAHAN, and DOES 1-50, Cross-Defendants.	

Defendant SARACIA L.P. SHANNAHAN ("Saracia") hereby applies ex parte for an Order extending her time to file a responsive pleading to the Complaint, the Cross-Complaint-In-Interpleader, and the Crossclaim.

Saracia's response to the Complaint, the Cross-Complaint and the Cross-claim will raise the same issues that are currently pending before the Court pursuant to Saracia's Ex Parte Application For Emergency Relief From Order Dated June 11, 2008 and this Court's related Order To Show Cause. Since the same issues would be addressed in a responsive pleading as those already pending before the Court, and because the Court may dispose of the case based upon the pending Order To Show Cause, judicial economy would be best served by waiting to file a responsive pleading until after this Court has ruled on the pending Ex Parte Application and Order To Show Cause.

Defendant Saracia respectfully requests that the Court grant an enlargement of time permitting Saracia to file her responsive pleading to the Complaints within 30 days of the Court's decision of the pending Order to Show Cause.

Counsel for Saracia has provided notice of this ex parte request to counsel for Plaintiff and Co-Defendants. Saracia has not sought or obtained any previous extensions of time.

This Application is based on the pleadings and papers on file in this action, this Application, the Memorandum of Points and Authorities, Declaration of Jennifer Chapman and exhibits filed concurrently herewith and whatever further evidence and argument is presented in conjunction with this motion.

DATED: July 30, 2008

CHAPIN WHEELER LLP

By: /S/ Jennifer M. Chapman
Edward D. Chapin, Esq.
Jill M. Sullivan, Esq.
Jennifer M. Chapman, Esq.
Attorneys for Defendant and Cross-Defendant
SARACIA L.P. SHANNAHAN

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

Saracia Shannahan ("Saracia") respectfully applies ex parte for an order enlarging the time in which to file a responsive pleading to the Complaint, Cross-Complaint-In-Interpleader, and the Crossclaim filed in this matter. Good cause exists for an extension of the time to file a responsive pleading because the necessity of any responsive pleading by Saracia depends upon the outcome of the currently pending Order to Show Cause in this matter. Further good cause exists because an extension will enable Saracia to avoid piecemeal pleading and instead respond in a comprehensive manner once all of the various pleadings have been properly filed. Saracia respectfully requests an enlargement of time permitting her to respond within 30 days after the decision in the Order to Show Cause is entered, in order to avoid waste and complexity.

II.

FACTS

Plaintiff Brookmead Partners L.P. filed its Complaint on April 11, 2008, shortly followed by its First Amended Complaint on May 29, 2008. [Doc. Nos. 1 and 3] Co-Defendant Higgs, Fletcher & Mack LLP filed its Cross-Complaint-In-Interpleader on May 29, 2008 [Doc. No. 5] This Court issued an Order on June 11, 2008, which Order granted Co-Defendant HF&M's request to deposit the funds at issue with the Court. [Doc. No. 9] Defendant Saracia filed an ex parte application seeking, *inter alia*, a stay of the June 11, 2008 Order. [Doc. No. 19] This Court issued an Order on June 24, 2008 granting, *inter alia*, a stay of the June 11, 2008 Order and ordering "other parties to show cause why the Court should not (1) vacate the interpleader Order and (2) dismiss/stay the entire action for lack of jurisdiction." [Doc. No. 21] Co-Defendant William P. Shannahan filed his Answer and Crossclaim on June 30, 2008. [Doc. No. 23] On July 3, 2008, the Court filed a Discrepancy Order rejecting the Answer and Crossclaim filed by Co-Defendant on June 30, 2008. [Doc. No. 27]. Co-Defendant Interinsurance Exchange of the Automobile Club nevertheless filed an Answer to

Co-Defendant William P. Shannahan's cross-claim on July 10, 2008. [Doc. No. 35] While Saracia has already filed her ex parte application—a motion showing her intent to challenge the pleadings in this action, Saracia intends to file a Rule 12 Motion and/or Answer in the event that the Court does not dismiss the Amended Complaint and Cross-Complaint based on the pending Order To Show Cause. The current date by which Saracia must file a responsive pleading to the Amended Complaint is August 5, 2008. The current date by which Saracia must file a responsive pleading to the Cross-Complaint-In-Interpleader is August 8, 2008.

IV.

ARGUMENT

A. Good Cause Exists For An Enlargement Of Time Because The Extension Will Avoid Waste And Complexity Without Prejudicing Any Party

Saracia respectfully requests an enlargement of time to respond to the Complaint, Cross-Complaint-In-Interpleader, and Cross-claim permitting her to respond within 30 days after the decision in the Order to Show Cause is entered. Good cause to grant leave exists because the requested extension will prevent waste and unwarranted complexity in this matter, without harm to any party.

This Court may dismiss the entire action based on its assessment of the briefing in response to its Order to Show Cause, in which case a response by Saracia would be an unnecessary waste of resources. Alternatively, the outcome of the Order to Show Cause may dispose of particular issues Saracia would address in her responsive pleading. Regardless of the outcome, the results of the pending Order to Show Cause bear significantly upon the contents of Saracia's responsive pleading.

At present, the Cross-claim that this Court rejected for improper filing has not yet been properly filed. Saracia anticipates that the party will seek to re-file this pleading. Permitting Saracia an extension of time to respond to the currently filed pleadings will make it possible for Saracia to respond in a comprehensive manner to all of the pleadings, assuming the rejected document is re-filed soon. Saracia's filing of a comprehensive responsive pleading will reduce waste and complexity in this matter.

Plaintiff and Co-Defendants will also benefit from this extension of time because the pleadings will be streamlined rather than piecemeal. Saracia's responsive pleading will not include issues that may be disposed of in the Order to Show Cause decision, so that the pleadings will not be confusing, mooted in part, or discontinuous. The time extension also will give Co-Defendant William P. Shannahan additional time to properly file his response. Saracia can then respond in a comprehensive manner to the entire set of allegations, thus reducing complexity to Plaintiff and Co-Defendants throughout the action.

V.

CONCLUSION

For all of the foregoing reasons, Saracia Shannahan respectfully requests that this Court grant this application for an Order Enlarging Time In Which To Respond.

DATED: July 30, 2008

CHAPIN WHEELER LLP

By: /S/ Jennifer M. Chapman
Edward D. Chapin, Esq.
Jill M. Sullivan, Esq.
Jennifer M. Chapman, Esq.
Attorneys for Defendant and Cross-Defendant
SARACIA L.P. SHANNAHAN

DECLARATION OF JENNIFER M. CHAPMAN

I, Jennifer M. Chapman, declare as follows:

1. I am an attorney with the law firm of Chapin Wheeler LLP, counsel for Defendant/Cross-Defendant Saracia Shannahan. I am familiar with the procedural history of this action and have sufficient personal knowledge of the facts set forth herein. If called as a witness, I could and would testify competently to those facts under oath.

2. Counsel for all interested parties will be notified of this Application in writing by email, and I understand that they will receive service of this Application and all documents in support thereof via the Court's automatic email system.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 30th day of July, 2008, at San Diego, California.

/S/ Jennifer M. Chapman

Brookmead Partners, LP v. Interinsurance Exchange of the Automobile Club, et al.
U.S. District Court Case No.: 08-cv-6590-JLS-WMc

PROOF OF SERVICE

I, the undersigned, say that I am over 18 years of age, employed in the County of San Diego, California, in which county the within-mentioned service occurred; and that I am not a party to the subject cause. My business address is 550 West C Street, Suite 2000, San Diego, California 92101.

On July 30, 2008, I served the following document(s):

1. **Saracia Shannahan's Ex Parte Application for Enlargement of Time to Respond to Complaint, Cross-Complaint-In-Interpleader, and Crossclaim and documents in support thereof**

by placing a copy thereof in a separate envelope for each addressee named hereafter and addressed as follows:

Co-Counsel for Defendant
HIGGS, FLETCHER & MAKC, LLP

John M. Morris, Esq.
Michael R. Gibson, Esq.
Higgs, Fletcher & Mack, LLP
401 West "A" Street, Suite 2600
San Diego, CA 92101
Tel: (619) 236-1551
Fax: (619) 696-1410

Attorneys for Plaintiff and Cross-Defendant
Brookmead Partners LP, a Nevada Limited Partnership

Darvy Mack Cohan, Esq.
1200 Prospect Street, Suite 550
La Jolla, CA 92037
Tel: (858) 459-4432
Fax: (858) 454-3548

( ) BY MAIL. I am familiar with this firm's practice of collection and processing correspondence for mailing with the United States Postal Service, and that the correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business to the last known address of the person or his/her attorney of record pursuant to Federal Rule of Civil Procedure § 5(b)(2)(B).

( ) BY FAX. In addition to service by mail as set forth above, a copy of said document(s) was/were also delivered by facsimile transmission to the addressees pursuant to Federal Rule of Civil Procedure § 5(b)(2)(D).

( ) BY OVERNIGHT. I deposited said document(s) in a box or other facility regularly maintained by the express service carrier providing overnight delivery pursuant to Code of Civil Procedure §1013(c).

( ) BY PERSONAL SERVICE. I caused to be hand-delivered via messenger said document(s) to the addressee shown above pursuant to Federal Rule of Civil Procedure § 5(b)(2)(A).

( ) BY EMAIL. The document stated herein was transmitted by email and the transmission was reported as complete and without error. A transmission report was properly issued indicating the date and time of receipt of the transmission.

(X) BY ELECTRONIC FILING. I am familiar with the United States District Court, Southern District of California's practice for collecting and processing electronic filings. Under that practice, documents are electronically filed with the Court. The Court's CM/ECF system will generate a Notice of Electronic Filing (NEF) to the filing party, the assigned judge, and any registered users in the case. The NEF will constitute service of the document. Registration as a CM/ECF user constitutes consent to the electronic service through the Court's transmission facilities. Under said practice, the above-parties were served via CM/ECF.

I hereby certify that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. I hereby certify under penalty of perjury that the foregoing is true and correct. Executed on July 30, 2008.

LCox

Lisa M. Cox